aside a certain portion of this burying ground as a public park, and thereupon a descendant of the grantor sued the city for his reversionary right to the land. The court, following the precedent laid down in *Rawson* v. *Inhabitants*, 7 Allen 125, held that the grant carried an absolute estate in fee simple with it, and that as the price paid seemed to have been the full value of the land at the time no reversionary interest could be left in the heirs of the grantors, especially as from the deed it would appear that the provision that the land should be used as a burying ground was inserted more in the interest of the grantees than grantor.

Evidence — Communication by Telephone. — *Oskamp* v. *Gadsden*, 52 N. W. Rep. 718, decided by the Supreme Court of Nebraska June 11, 1892, discussed the interesting question of the admissibility of evidence of conversation held over the telephone. Defendant at Schuyler attempted to converse over telephone with plaintiff at Omaha, but owing to condition of atmosphere they were unable to understand each other and the telephone operator at Fremont, an intermediate station, transmitted defendant's message to plaintiffs offering to sell them a quantity of hay, and also repeated to defendant their answer accepting the proposition. It was contended that the testimony of defendant as to what the operator repeated to him as the conversation progressed was irrelevant and hearsay; but the court held that it was admissible on the ground of agency. "The question thus presented is a new one to this court and there are but few decided cases which aid us in our investigation. But upon principle it seems to me that the testimony is competent, and its admission violated no rule of evidence. It was admissible on the ground of agency. The operator at Fremont was the agent of defendant in communicating defendant's message to Haines, and she was also the latter's agent in transmitting or reporting his answer thereto to defendant. The books on evidence, as well as the adjudicated cases, lay down the rule that the statements of an agent within the line of his authority are admissible in evidence against his principal. Likewise it has been held that when a conversation is carried on between persons of different nationalities through an interpreter, the statement made by the latter at the time the conversation occurred as to what was then said by the parties is competent evidence and may be proven by calling persons who were present and heard it." The court cited *People* v. *Ward*, 3 N. Y. Crim. R. 483; *Wolf* v. *Railway Co.*, 97 Mo. 473; *Printing Co.* v. *Stahl*, 23 Mo. App. 451, and *Sullivan* v. *Kuykendall*, 82 Ky. 483, as cases in which

the subject of telephonic conversation had been considered, and quoted with approval from the opinion in the Kentucky case: "When one is using the telephone if he knows that he is talking to the operator he also knows that he is making him an agent to repeat what he is saying to another party; and in such a case certainly the statements of the operator are competent, being the declaration of the agent, and made during the progress of the transaction."

Gifts Causa Mortis — Evidence — Constructive Delivery — Bank Pass Book.— Thomas' administrator v. *Lewis*, 15 S. E. Rep. 389 (Va.). This was an action brought to establish a gift *causa mortis* of an entire personal estate consisting of money and choses in action, valued at $200,000. The alleged donor had died at the age of seventy, unmarried and intestate. The claimant was his illegitimate daughter by a former slave. It appeared that the deceased had educated his daughter liberally, had built a dwelling house for her and her husband, and was residing with them at the time of his death. He had frequently declared that his collateral relations should not share in his estate, and that his daughter should have it all. The only person who testified to the fact of the gift was the daughter's household companion. The Supreme Court held, one judge dissenting, that the gift was valid, excepting a pass-book showing the amount of donor's deposits in a national bank. The judge that wrote the opinion took strong ground for the validity of this gift also. The opinion is an elaborate discussion of the subject of gifts *causa mortis*, and contains a valuable collection of citations. The court says: "The circumstance that there is but one direct witness to the gift, competent to testify (the appellant declining to allow the donee as a witness when offered) does not affect the validity of the gift. One witness, if credible, is sufficient. The law does not require more than one; and especially, as in this case, when that one is not only unimpeached, but corroborated." *Hatch* v. *Atkinson*, 56 Me. 324, is in point. Declarations as to the circumstances of the gift, made the day after by the donee and her companion are competent evidence, both as part of the *res gestæ*, and to rebut inferences sought to be drawn from an adverse witness as to the donee's silence in regard to the matter two days later. "Nor does the magnitude of the gift affect its validity. It may extend to the whole of the donor's personal estate." The common law, unlike the Roman, does not limit the amount of personal estate subject to gifts *causa mortis*. Delivery is held to be essential, but construc-